

No. PD-1226-18

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FILED

COURT OF CRIMINAL APPEALS  
7/30/2019

In the Texas Court of Criminal Appeals DEANA WILLIAMSON, CLERK

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MARK DAVID ZIMMERMAN, Appellant,

v.

STATE OF TEXAS, Appellee.

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On Petition for Discretionary Review from the  
Fifth Court of Appeals in Dallas  
COA No. 05-17-00492-CR  
Tr. Ct. No. 067724

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**APPELLANT'S MOTION FOR EXTENSION OF TIME TO FILE BRIEF**

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TO THE HONORABLE TEXAS COURT OF CRIMINAL APPEALS:

On the evening of July 29, 2019, undersigned counsel received a notice from this Court stating that the Appellant's brief in this matter was due on July 26, 2019, and that in order to avoid the issuance of a show cause order, counsel must immediately file Appellant's brief along with a motion for extension of time. It is undersigned counsel's request and prayer that this Court not issue a show cause order, but rather grant additional time for the filing of Appellant's brief.

Counsel's request for an Extension of Time to File Appellant's brief is based on the following good cause:

Counsel received notice of appointment in this matter on June 27, 2017 from the 397th District Court in Grayson County. The Order of Appointment was signed on July 1, 2019 and the Clerk's Record was supplemented with the order of Appointment on July 3, 2019. Due to the district court's signing of the order of appointment on July 1, 2019 and the supplementation of the record on July 3, 2019, undersigned counsel was under the mistaken impression that the deadline for filing the brief in this matter would be set at 30 days from the date the supplemental clerk's record was filed in this Court (August 2, 2019). As a result, counsel did not file Appellant's brief or a motion for extension of time to file Appellant's brief on July 26, 2019. Additionally, it was on undersigned counsel's calendar to prepare and file a motion for extension of time to file Appellant's on July 31, 2019 because she has had insufficient time to prepare the Appellant's brief for the following reasons:

Undersigned counsel's appellate and federal docket have had several deadlines fall within the last thirty days. Undersigned counsel was engaged to assist in the preparation of two appellate briefs due in the United States Court of Appeals for the Fifth Circuit that were due on July 12, 2019 and July 26, 2019, and the preparation of two appellate briefs in the Sixth Court of Appeals in Texarkana due on August 2, 2019 and August 7, 2019. The names and cause numbers for those cases are as follows:

*United States v. Baquavious Rivers*, No. 19-10090 (5th Cir.); *United States v. Quinton Sheton, also known as Debo*, No. 19-10228 (5th Cir.); *Timothy Eiland v. State of Texas*, No. 06-19-00044-CR; and *John Fitzgerald Davis v. State of Texas*, No. 06-19-00081-CR. Additionally, undersigned counsel has had two federal cases in which presentence reports were issued in the past two weeks that required counsel to review and meet with each client prior to July 31, 2019. The names and cause numbers for those cases are as follows: *United States v. Devundre Ghoston*, 3-18CR-395-K (Northern Dist. Tex., Dallas Division); and *United States v. Brittney Dollahite*, 4:19CR60 (Eastern Dist. Tex., Sherman Division).

#### **CONCLUSION AND PRAYER**

For the reasons set forth above, undersigned counsel prays this Court will grant this motion to extend the time for filing Appellant's brief in this matter and afford counsel an additional thirty days from the filing of this motion to file Appellant's brief.

Respectfully submitted,

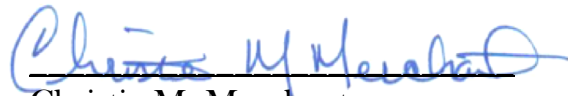


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*Mark Zimmerman*

**CERTIFICATE OF SERVICE**

This is to certify that a true and correct copy of the above and foregoing Appellant's Brief has been forwarded to the Grayson County District Attorney's Office and Office of the State Prosecuting Attorney on July 20, 2019 via EfileAndServe.

  
Christie M. Merchant